

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE**

JEANETTE FLEWELLING,

Plaintiff,

v.

LIBERTY MUTUAL GROUP, INC.,

Defendant.

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Case No. 2:13-cv-2594

Judge_____

NOTICE OF REMOVAL

Defendant Liberty Mutual Group, Inc. ("Liberty Mutual"), through undersigned counsel, hereby notices the removal of this case from the General Sessions Court of Shelby County, Tennessee to the United States District Court for the Western District of Tennessee. In support thereof, Liberty Mutual states as follows:

1. On June 14, 2013, Plaintiff Jeanette Flewelling ("Plaintiff") brought the above-styled action against Liberty Mutual in the General Sessions Court of Shelby County, Tennessee, Civil Warrant No. 1632041. See Complaint, attached hereto as Exhibit A. Liberty Mutual was not served with Plaintiff's Complaint until July 9, 2013. See Notice of Service of Process, attached hereto as Exhibit B.

2. Plaintiff's action seeks the provision of benefits allegedly owed to her under a "benefits contract" with Liberty Mutual. See Ex. A.

3. Plaintiff's asserted claim for benefits as a participant under, and relating to the administration of, an employee welfare benefit plan is governed by the Employee Retirement Income Security Act ("ERISA", 29 U.S.C. §1001, *et seq.*). ERISA not only

preempts all state common law and statutory claims, but also provides for original jurisdiction in the district courts of the United States under 29 U.S.C. § 1132(e) and (f).

4. This action is removable on the grounds that federal question jurisdiction exists pursuant 28 U.S.C. § 1331, as Plaintiff's claim challenging the denial of her benefits arises exclusively under the laws of the United States. See 28 U.S.C. § 1441.

5. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b). Notice of this action was served on Liberty Mutual on July 9, 2013. See Ex. B. Therefore, the 30-day period under 28 U.S.C. § 1446(b) to remove this action has not yet expired.

6. Pursuant to 28 U.S.C. § 1446(a), Defendants have attached hereto a copy of all process and pleadings served upon Defendants in this action. See Exs. A, B.

7. Pursuant to 28 U.S.C. § 1446(d), Defendants certify that a Notice of Removal has been filed with the General Sessions Court of Shelby County, Tennessee and served upon Plaintiff's attorney at the address below.

DATED: August 2, 2013

Respectfully submitted,

s/Lynda M. Hill
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*Attorneys for Defendant Liberty Mutual
Group, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon J.D. Barton, 6565 Hwy 51 N., Millington, TN 38053, via U.S. mail, postage pre-paid, this 2nd day of August, 2013.

s/Lynda M. Hill

Lynda M. Hill

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